Appendix 4
Waivers of Parental/Guardian Permission or Child Assent

Conditions under which parental/guardian permission may be waived for U.S. Food and Drug Administration (FDA)-regulated clinical investigations are found at:

21 CFR §50.23 for life threatening situations, Exception from General Requirements and 21 CFR §50.24, Exception from Informed Consent Requirements for Emergency Research. It is not expected that NIAID (DAIDS)-supported and/or -sponsored clinical research will met either of these two conditions.

Conditions under which parental/guardian permission may be waived for non-FDA regulated clinical research:

45 CFR §46.116(c)

1) The research is to be conducted by or subject to the approval of state or local government officials and is designed to study, evaluate, or otherwise examine:

    i) public benefit or service programs;
    ii) procedures for obtaining benefits or services under those programs;
    iii) possible changes in or alternatives to those programs or procedures; or
    iv) possible changes in methods or levels of payment for benefits or services under those programs;

AND

2) The research could not practicably be carried out without the waiver or alteration.

OR

45 CFR §46.116(d)

1) The research involves no more than minimal risk to the participants;
2) The waiver or alteration will not adversely affect the rights and welfare of the participants;

3) The research could not practicably be carried out without the waiver or alteration; and
4) Whenever appropriate, the participants will be provided with additional pertinent information after participation.

OR

45 CFR §46.408(c)

In the rare situation in which the Institutional Review Board (IRB)/Ethics Committee (EC) determines that a research protocol is designed for conditions or for a subject population for which parental or guardian permission is not a reasonable requirement to protect participants (for example, neglected or abused children), it may waive the consent requirements in Subpart A, provided an appropriate mechanism for protecting the children who will participate in the research will be substituted. Such a waiver must be consistent with Federal, State, or local laws.

The Protocol Team's choice of an appropriate substitute mechanism (for example, appointing a child advocate or an assent monitor) for protecting children participating in research would depend on the nature and purpose of the activities described in the study, the risk and anticipated benefit to the research participants, and the child's age, maturity, status, and condition, as well as approval by the IRB/EC.

Conditions under which child assent may be waived[1]:

45 CFR §46.116(c)

1) The research is to be conducted by or subject to the approval of state or local government officials and is designed to study, evaluate, or otherwise examine:

   (i) public benefit or service programs;
   (ii) procedures for obtaining benefits or services under those programs;
   (iii) possible changes in or alternatives to those programs or procedures; or

[1] Parental/guardian permission is required unless otherwise waived

(iv) possible changes in methods or levels of payment for benefits or services under those programs;

AND

2) The research could not practicably be carried out without the waiver or alteration.

OR

45 CFR §46.116(d) and 21 CFR §50.55(d)

1) The research involves no more than minimal risk to the participants;
2) The waiver or alteration will not adversely affect the rights and welfare of the participants;
3) The research could not practicably be carried out without the waiver or alteration; and
4) Whenever appropriate, the participants will be provided with additional pertinent information after participation.

OR

45 CFR §46.408(a) and 21 CFR §50.55

1) If the IRB/EC determines that the capability of some or all of the children is so limited that they cannot reasonably be consulted.

OR

2) The intervention or procedure involved in the research holds out the prospect of direct benefit that is important to the health or well-being of the subjects and is available only in the context of the research.